

JUDGE'S COPY

JAMES EDWARD HELLER

ES1810

1600 WALTERS MILL ROAD

SOMERSET, PENNSYLVANIA 15510-0001

DATE

12/13/01

MARY D'ANDREA-CLERK OF COURTS

U.S. DISTRICT COURT

228 WALNUT STREET

P.O. BOX 983

HARRISBURG, PA 17108

FILED
HARRISBURG, PA
DEC 19 2001

MARY E. D'ANDREA, CLERK
Per SK
Deputy Clerk

RE: Heller Vs. Doherty, et,al. Case No. 1:CV-01-828

Middle District of Pennsylvania

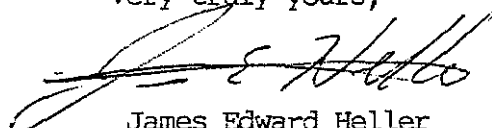
Judge Yvette Kane

J. Kane

Dear Ms D'Andrea,

Please find for filing my Motion for Leave to File an Amended Complaint
and my proposed Amendment. Thank you.

Very truly yours,



James Edward Heller

cc: Gerard Geiger, Esq
John R. Ninosky, Esq
File

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JAMES EDWARD HELLER

) CASE NO. 1:CV-01-828

PLAINTIFF

vs.

) HONORABLE JUDGE YVETTE KANE

JAMES DOHERTY, et, al.

DEFENDANT

) ORDER OF COURT

And now, this _____ day of _____, 2001, upon consideration of Plaintiff's Motion for Leave to File an Amended Complaint pursuant to FED.R. CIV.P. 15 and Defendant's response thereto, (if any), it is hereby ordered that Plaintiff's Motion is GRANTED.

BY THE COURT:

YVETTE KANE

J.

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JAMES EDWARD HELLER

) CASE NO. 1:CV-01-828

PLAINTIFF

vs.

) HONORABLE JUDGE YVETTE KANE

JAMES DOHERTY, et, al.

) MOTION FOR LEAVE TO FILE AN

DEFENDANT

) AMENDED COMPLAINT

PLAINTIFF'S MOTION FOR LEAVE TO FILE AN AMENDED COMPLAINT

Plaintiff James Edward Heller, pursuant to FED. R. CIV.P. 15 requests leave to file an amended complaint and states the following in support thereof:

1. In the original complaint, plaintiff did not state clearly how the defendants' actions violated his constitutional rights. This was due to the plaintiff's lack of prior litigation experience.

2. If granted leave to file an amended complaint, plaintiff will set forth the facts of the case in a manner that will clearly state how the defendants violated the plaintiff's constitutional rights, and will established a constitutional violation.

3. At the time the plaintiff filed the original complaint, he overlooked and failed to include the fact that after being notified of defendants Start, Williams, Kessler, and Sofia's abusive conduct, defendant Doherty failed to take disciplinary action against these defendants.

4. If granted leave to file an amended complaint, plaintiff will include the claim mentioned in paragraph three (3) against defendant Doherty in a manner that will clearly state how defendant Doherty's actions violated the plaintiff's constitutional rights, and will establish a constitutional violation.

5. At the time the plaintiff filed the original complaint, plaintiff overlooked the fact that defendant Doherty used malicious tactics to deprive the plaintiff of adequate, meaningful use of the Inmate Grievance Procedure.

6. If granted leave to file an amended complaint, plaintiff will include the claim mentioned in paragraph five (5) in a manner that will clearly state how defendant Doherty's actions violated the plaintiff's constitutional rights, and will establish a constitutional violation.

7. At the time the plaintiff filed the original complaint, the plaintiff overlooked and failed to include nurse Ester Thomas, as a defendant. Thomas is an employee of Prime Care Medical, and is assigned to the Monroe County Correctional Facility. Thomas failed to treat the plaintiff after he was assaulted by defendant correctional officers on February 28, 2001.

8. If granted leave to file an amended complaint the plaintiff will include the claim in paragraph seven (7) against Ester Thomas in a manner that will clearly state how Thomas' actions violated the plaintiff's constitutional rights and will establish a constitutional violation.

9. In the original complaint, the plaintiff named Prime Care Medical as a defendant.

10. If granted leave to file an amended complaint, the Plaintiff will dismiss Prime Care Medical as a defendant.

11. At the time the plaintiff filed the original complaint, the plaintiff overlooked and failed to include officers Johnathon Donate, Blaney, Stusulli, and Fulse. These officers used excessive

force against the plaintiff on May 1, 2000, while plaintiff was incarcerated at the Monroe County Correctional Facility.

12. If granted leave to file an amended complaint, the plaintiff will include the claim mentioned in paragraph eleven (11) and set forth the facts regarding the events that occurred on May 1, 2000, in a manner that will clearly state how the defendant parties violated the plaintiff's constitutional rights and will establish a constitutional violation.

13. At the time the plaintiff filed the original complaint, the plaintiff overlooked and failed to include the fact that defendant Doherty failed to take disciplinary action or other action to curb the known pattern of physical abuse of inmates by parties Donate and Blaney.

14. If granted leave to file an amended complaint, the plaintiff will include the claim mentioned in paragraph thirteen (13) against defendant Doherty in a manner that will clearly state how defendant Doherty's actions violated the plaintiff's constitutional rights and will establish a constitutional violation.

15. Since the date of filing the original complaint; May 10, 2001, new events have occurred in which the plaintiff's constitutional rights were violated.

16. If granted leave to file an amended complaint, plaintiff will include a claim against Jane Doe, a secretary at the Monroe County Correctional Facility, who opened the plaintiff's privileged legal mail absent the plaintiff being present. Plaintiff will set forth the claim in a manner that will clearly state how Doe's actions violated the plaintiff's constitutional rights and will establish a constitutional violation.

17. If granted leave to file an amended complaint, plaintiff will include a claim against defendant McFarland, whom failed to acknowledge and enforce the plaintiff's constitutional right to have his privileged legal mail opened in his presence. Plaintiff will set forth the claim in a manner that will clearly state how defendant McFarland's actions violated plaintiff's constitutional rights and will establish a constitutional violation.

18. If granted leave to file an amended complaint, plaintiff will include claims of the torts of assault and battery against defendants Doherty, Start, Williams, Kessler, Sofia, Donate, Blaney, Stusulli, and Fulse, in a manner that will clearly establish a violation of Pennsylvania State Law.

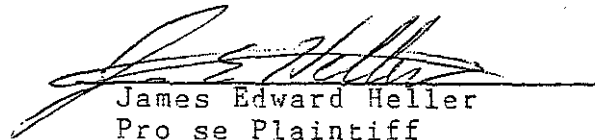
19. If granted leave to file an amended complaint, plaintiff include claims of the torts of negligence against defendants Thomas and Doe, in a manner that will clearly establish a violation of Pennsylvania State Law.

20. In the original complaint, the plaintiff did not request monetary relief and punitive damages against the defendants named in the original complaint. Plaintiff was not aware at the time he filed the original complaint that he is entitled to request such relief. This was due to the plaintiff's lack of prior litigation experience.

21. If granted leave to file an amended complaint, plaintiff will request this Court to grant him monetary relief for damages and punitive damages against the defendants named in the original complaint as well as the parties named in the amended complaint.

WHEREFORE, the plaintiff, James Edward Heller, respectfully requests that this Honorable Court grant the plaintiff leave to file an amended complaint.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "James E. Heller", is written over a horizontal line.

James Edward Heller
Pro se Plaintiff
1600 Walters Mill Road.
Somerset, PA 15510

DATED: 12/13/01

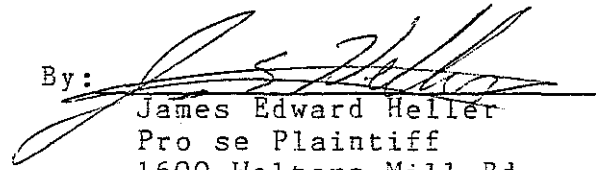
CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of December, 2001, I served the the foregoing Motion for Leave to File an Amended Complaint on the parties of record by sending the parties a true and correct copy of the aforementioned Motion by U.S. First Class Mail, Postage Prepaid.

Gerard Geiger, Esq
712 Monroe St.
P.O. Box 511
Stroudsburg, PA 18360-0511

John R, Ninosky, Esq
320 Market St.
P.O. Box 1268
Harrisburg, PA 17108-1268

By:



James Edward Heller
Pro se Plaintiff
1600 Walters Mill Rd.
Somerset, PA 15510-0001

Dated: 12/13/01